IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

Bail Appl..No. 4316 of 2007()

C.R.37/07 OF WADAKKANCHERRY EXCISE RANGE

APPLICANT/ACCUSED

KRISHNANKUTTY,
S/O.NEELAMOKKAL NARAYANAN,
AGED 44 YEARS, THALOPPILLI VARAVOOR VILLAGE,
KUMARAPPANAL DESOM.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.REVIKRISHNAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4316 of 2007

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Dated this the 16th day of July, 2007

O R D E R

Application for regular bail. The petitioner faces allegations under the Kerala Abkari Act. The crux of the allegations is that the petitioner was found to be in possession of 2.8 litres of I.M.F.L. He was allegedly engaged in the activity of illicit sale of liquor. He was intercepted and arrested on 5.7.2007. He continues in custody from that date. Without and before moving the learned Sessions Court, the petitioner has come to this Court with this application for regular bail.

2. The learned Prosecutor opposes the application. He submits that the petitioner is involved in three other cases, all under the Kerala Abkari Act. Such offences were committed in 2002, 2004 and 2006. In these circumstances the prosecution is obliged to oppose the application for bail at this early stage, submits the Prosecutor.

3. I find merit in the opposition. In the wake of opposition by the Public Prosecutor bail can be granted to the petitioner only if

this court is in a position to entertain both the satisfactions contemplated under Section 41A of the Kerala Abkari Act. In the facts and circumstances of this case, I am unable to entertain either of those satisfactions. The prayer for bail must in these circumstances fail.

4. This application is, in these circumstance, dismissed. But I may hasten to observe that the petitioner shall be at liberty to move the courts for bail again at a later stage of the investigation, not at any rate, prior to 27.7.2007. The Investigators shall, in the meantime, make every endeavour to complete the investigation.

(R. BASANT)
Judge

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